

AMENDED IN SENATE JULY 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 478**

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**Introduced by Assembly Member Chesbro**

February 24, 2009

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An act to amend ~~Section 38562 of the Health and Safety Code Sections 43020 and 43021 of, and to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of, the Public Resources Code,~~ relating to greenhouse gas emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 478, as amended, Chesbro. Greenhouse gas emissions: ~~solid recycling and waste management.~~

Existing law, the California Global Warming Solutions Act of 2006, requires the State Air Resources Board to adopt greenhouse gas emissions limits and emission reduction measures by regulation. The state board is required to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020.

*The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires the board to implement various state programs designed to encourage the reduction of solid waste.*

This bill would require the ~~state board to consult with the~~ California Integrated Waste Management Board ~~in developing the regulations to include rules for the reduction of greenhouse gas emissions from solid waste reduction and recycling,~~ *in consultation with the State Air Resources Board and the State Water Resources Control Board, to adopt rules and regulations relating to recycling and solid waste*

*management to reduce greenhouse gas emissions, and would subject violators of these rules and regulations to civil and criminal penalties.*

*By creating a new crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Since the enactment of the California Integrated Waste  
4 Management Act of 1989 (Division 30 (commencing with Section  
5 40000) of the Public Resources Code), an extensive material  
6 collection and recycling infrastructure has been created, resulting  
7 in the achievement of a statewide diversion rate beyond 50 percent  
8 and the reduction of three million metric tons of carbon dioxide.

9 (b) All solid waste should be properly managed in order to  
10 minimize the generation of waste, maximize the diversion of solid  
11 waste from landfills, and manage all solid waste to its highest and  
12 best use, in accordance with the waste management hierarchy and  
13 in support of the California Global Warming Solutions Act of  
14 2006.

15 (c) A comprehensive array of solid waste diversion programs  
16 will result in an actual reduction in disposal tonnage and  
17 greenhouse gas emissions.

18 (d) Although the state now leads the nation in solid waste  
19 reduction and recycling, the state continues to dispose of more  
20 than 40 million tons of solid waste each year, which is more than  
21 the national average on a per capita basis. Additional efforts must  
22 be undertaken to divert more solid waste from disposal in order  
23 to reduce the production of greenhouse gas emissions statewide.

1 (e) The anaerobic decomposition of solid waste in landfills  
2 produces methane, a greenhouse gas 21 times more potent than  
3 carbon dioxide.

4 (f) Greenhouse gas emissions can be substantially reduced by  
5 properly managing all materials to minimize the generation of  
6 waste, maximizing the diversion of solid waste from landfills, and  
7 capturing methane emissions to be put to their highest and best  
8 use.

9 (g) Reducing waste and materials at the source of generation,  
10 increased use of compost to benefit soils, coupled with increased  
11 recycling and extended producer responsibility, have the potential  
12 to reduce emissions, both within the state and within the connected  
13 global economy.

14 (h) According to the State Air Resources Board's Climate  
15 Change Scoping Plan, further implementation of aggressive high  
16 recycling and source reduction measures has the potential to offset  
17 as much as nine million metric tons of carbon dioxide by 2020.

18 *SEC. 2. Chapter 20 (commencing with Section 42970) is added*  
19 *to Part 3 of Division 30 of the Public Resources Code, to read:*

20  
21 *CHAPTER 20. GREENHOUSE GAS REDUCTION MEASURES*

22  
23 *42970. The board, in consultation with the State Air Resources*  
24 *Board and the state water board, shall adopt rules and regulations*  
25 *relating to recycling and solid waste management to reduce*  
26 *greenhouse gas emissions, including, but not limited to, the*  
27 *measures described in the plan adopted by the State Air Resources*  
28 *Board pursuant to Section 38561 of the Health and Safety Code.*

29 *42973. Any person who violates a rule or regulation adopted*  
30 *pursuant to Section 42970 shall be subject to the penalties*  
31 *described in Section 38580 of the Health and Safety Code. For the*  
32 *purposes of this section, "state board," as used in Section 38580*  
33 *of the Health and Safety Code, means the board.*

34 *42975. This chapter does not limit the authority of the State*  
35 *Air Resources Board under Division 25.5 (commencing with*  
36 *Section 38500) of the Health and Safety Code.*

37 *SEC. 3. Section 43020 of the Public Resources Code is*  
38 *amended to read:*

39 *43020. The board shall adopt and revise regulations which that*  
40 *set forth minimum standards for solid waste handling, transfer,*

1 composting, transformation, and disposal, in accordance with this  
2 division, and Section 117590 of, and Chapter 6.5 (commencing  
3 with Section 25100) of Division 20 of, the Health and Safety Code.  
4 *The Except as provided in Chapter 20 (commencing with Section*  
5 *42970) of Part 3, the board shall not include any requirements that*  
6 *are already under the authority of the State Air Resources Board*  
7 *for the prevention of air pollution or of the state water board for*  
8 *the prevention of water pollution.*

9 *SEC. 4. Section 43021 of the Public Resources Code is*  
10 *amended to read:*

11 43021. Regulations shall include standards for the design,  
12 operation, maintenance, and ultimate reuse of solid waste facilities,  
13 but shall not include aspects of solid waste handling or disposal  
14 ~~which~~ *that are solely of local concern or which, except as provided*  
15 *in Chapter 20 (commencing with Section 42970) of Part 3, that*  
16 *are within the jurisdiction of the State Air Resources Board, air*  
17 *pollution control districts and air quality management districts, or*  
18 *the state water board or regional water boards.*

19 *SEC. 5. No reimbursement is required by this act pursuant to*  
20 *Section 6 of Article XIII B of the California Constitution because*  
21 *the only costs that may be incurred by a local agency or school*  
22 *district will be incurred because this act creates a new crime or*  
23 *infraction, eliminates a crime or infraction, or changes the penalty*  
24 *for a crime or infraction, within the meaning of Section 17556 of*  
25 *the Government Code, or changes the definition of a crime within*  
26 *the meaning of Section 6 of Article XIII B of the California*  
27 *Constitution.*

28 ~~SEC. 2. Section 38562 of the Health and Safety Code is~~  
29 ~~amended to read:~~

30 ~~38562. (a) On or before January 1, 2011, the state board shall~~  
31 ~~adopt greenhouse gas emission limits and emission reduction~~  
32 ~~measures by regulation to achieve the maximum technologically~~  
33 ~~feasible and cost-effective reductions in greenhouse gas emissions~~  
34 ~~in furtherance of achieving the statewide greenhouse gas emissions~~  
35 ~~limit, to become operative beginning on January 1, 2012.~~

36 ~~(b) In adopting regulations pursuant to this section and Part 5~~  
37 ~~(commencing with Section 38570), to the extent feasible and in~~  
38 ~~furtherance of achieving the statewide greenhouse gas emissions~~  
39 ~~limit, the state board shall do all of the following:~~

1     ~~(1) Design the regulations, including distribution of emissions~~  
2     ~~allowances where appropriate, in a manner that is equitable, seeks~~  
3     ~~to minimize costs and maximize the total benefits to California,~~  
4     ~~and encourages early action to reduce greenhouse gas emissions.~~

5     ~~(2) Ensure that activities undertaken to comply with the~~  
6     ~~regulations do not disproportionately impact low-income~~  
7     ~~communities.~~

8     ~~(3) Ensure that entities that have voluntarily reduced their~~  
9     ~~greenhouse gas emissions prior to the implementation of this~~  
10    ~~section receive appropriate credit for early voluntary reductions.~~

11    ~~(4) Ensure that activities undertaken pursuant to the regulations~~  
12    ~~complement, and do not interfere with, efforts to achieve and~~  
13    ~~maintain federal and state ambient air quality standards and to~~  
14    ~~reduce toxic air contaminant emissions.~~

15    ~~(5) Consider cost-effectiveness of these regulations.~~

16    ~~(6) Consider overall societal benefits, including reductions in~~  
17    ~~other air pollutants, diversification of energy sources, and other~~  
18    ~~benefits to the economy, environment, and public health.~~

19    ~~(7) Minimize the administrative burden of implementing and~~  
20    ~~complying with these regulations.~~

21    ~~(8) Minimize leakage.~~

22    ~~(9) Consider the significance of the contribution of each source~~  
23    ~~or category of sources to statewide emissions of greenhouse gases.~~

24    ~~(e) In furtherance of achieving the statewide greenhouse gas~~  
25    ~~emissions limit, by January 1, 2011, the state board may adopt a~~  
26    ~~regulation that establishes a system of market-based declining~~  
27    ~~annual aggregate emission limits for sources or categories of~~  
28    ~~sources that emit greenhouse gas emissions, applicable from~~  
29    ~~January 1, 2012, to December 31, 2020, inclusive, that the state~~  
30    ~~board determines will achieve the maximum technologically~~  
31    ~~feasible and cost-effective reductions in greenhouse gas emissions,~~  
32    ~~in the aggregate, from those sources or categories of sources.~~

33    ~~(d) Any regulation adopted by the state board pursuant to this~~  
34    ~~part or Part 5 (commencing with Section 38570) shall ensure all~~  
35    ~~of the following:~~

36    ~~(1) The greenhouse gas emission reductions achieved are real,~~  
37    ~~permanent, quantifiable, verifiable, and enforceable by the state~~  
38    ~~board.~~

39    ~~(2) For regulations pursuant to Part 5 (commencing with Section~~  
40    ~~38570), the reduction is in addition to any greenhouse gas emission~~

1 ~~reduction otherwise required by law or regulation, and any other~~  
2 ~~greenhouse gas emission reduction that otherwise would occur.~~

3 ~~(3) If applicable, the greenhouse gas emission reduction occurs~~  
4 ~~over the same time period and is equivalent in amount to any direct~~  
5 ~~emission reduction required pursuant to this division.~~

6 ~~(e) The state board shall rely upon the best available economic~~  
7 ~~and scientific information and its assessment of existing and~~  
8 ~~projected technological capabilities when adopting the regulations~~  
9 ~~required by this section.~~

10 ~~(f) The state board shall consult with the Public Utilities~~  
11 ~~Commission in the development of the regulations as they affect~~  
12 ~~electricity and natural gas providers in order to minimize~~  
13 ~~duplicative or inconsistent regulatory requirements.~~

14 ~~(g) The state board shall consult with the California Integrated~~  
15 ~~Waste Management Board in the development of the regulations~~  
16 ~~to include rules for the reduction of greenhouse gas emissions from~~  
17 ~~solid waste reduction and recycling.~~

18 ~~(h) After January 1, 2011, the state board may revise regulations~~  
19 ~~adopted pursuant to this section and adopt additional regulations~~  
20 ~~to further the provisions of this division.~~